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HTSA 03-14345-1

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January 13, 2003

National Highway Transportation Administration
400 Seventh Street, S.W.
Washington, D.C. 20590

To Whom It May Concern:

Please find enclosed a Petition for Rulemaking Regarding Power Window/Partition/Roof Panel Design. Please return a file stamped copy in the enclosed self addressed stamped envelope.

Thank you for your assistance.

Very truly yours,

Carri Allenbach

Carri Allenbach
Legal Assistant to David Little

Encl. ✓

DEPT. OF TRANSPORTATION
03 JAN 23 PM 2:42

EXECUTIVE SECRETARIAT
2003 JAN 14 P 4: 06
NATIONAL HIGHWAY
TRAFFIC SAFETY ADM.

ES03-000208

BEFORE THE UNITED STATES DEPARTMENT OF TRANSPORTATION
NATIONAL HIGHWAY SAFETY ADMINISTRATION

TO: ADMINISTRATOR
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
400 SEVENTH AVENUE, S.W.
WASHINGTON, D.C. 20590

PETITION FOR RULEMAKING REGARDING POWER
WINDOW/PARTITION/ROOF PANEL DESIGN

I. AUTHORITY

This Petition for the amendment to a Federal Motor Vehicle Safety Standard is brought pursuant to 49 C.F.R. Part 552 (1994). The Standard FMVSS 118 speaks specifically to "Power Operated Window, Partition, And Roof Panel Systems". Although FMVSS 118 was first promulgated in 1969, the standard has failed to address various dangers with respect to the design of the power window operating system. More specifically, children are being killed and severely injured as a result of becoming entrapped in power windows. The frequency with which these children are becoming killed and severely injured is alarming, and approaching epidemic.

II. SUBSTANCE OF THE PROPOSED AMENDMENT

Petitioner proposes the following: "All motor vehicles equipped with power operated windows shall have the controls for such systems designed so that (1) the controls are protected from inadvertent actuation by placement or guarding (2) downward pressure on any control can only cause the window to open."

Additionally, "All motor vehicles equipped with power operated window systems, manufactured after the effective date of this **AMENDMENT** shall incorporate within the

control system an AUTOMATIC REVERSAL SAFETY FEATURE as a mandatory design feature. The AUTOMATIC REVERSAL SAFETY FEATURE shall meet the performance standard specified in MFVSS 118, Section S 5."

III. FACTS WHICH SUPPORT THE AMENDMENT

Plain and simple, children are being killed and severely injured by becoming entrapped in automobile power windows. As an understatement, it is occurring at an alarming rate. Without intervention by NHTSA, it will continue to happen. If automakers are unwilling to protect our children, it is incumbent upon the government to intervene.

Parenthetically, a similar petition was filed in September, 1996 by Michael Garth Moore. Since that time, numerous other children have needlessly lost their lives or have been severely and permanently injured as a result of becoming entrapped in power windows. It should also be noted that no method of collecting data has been adopted which lends itself to ascertaining the full extent of the problem. However, Petitioner is in possession of numerous documents which he believes are illustrative (a sampling is attached hereto - - additional documents will be made available upon request).

The method and manner in which children find themselves entrapped is all too common. Small children are kneeling or standing on arm rests and inadvertently coming in contact with the power window switches which are located thereon. In vehicles in which the rocker or toggle switch is incorporated, often times this leads to the inadvertent actuation of the upper movement of the windows resulting in the entrapping of the child. In vehicles in which "push down/pull up" power window switches have been incorporated, no such injury or fatality can occur.

Additionally, petitioner has spoken with representatives of Brose, North American, Inc. Brose has mass produced an Automatic Reversal Safety feature since 1986. Brose knows of not a single instance in which a child has been injured or killed as a result of becoming entrapped in one of its systems. Petitioner was unable to locate any incident as well.

TECHNOLOGY AND ECONOMIC FEASIBILITY

Most U.S. automakers incorporate either the "rocker" or "toggle" switches to activate power windows. Petitioner contends that these switches are unreasonably dangerous and defective. As a technological and economically feasible alternative, petitioner submits that the push down/pull up switch does not lend itself to being inadvertently actuated by a child kneeling or standing on the arm rest or the switch. Petitioner does not anticipate any person or entity asserting that a push down/pull up switch is unfeasible, either technologically or economically. (See exhibits attached). It is a well settled proposition the European and Asian auto-makers use this technology as a matter of course.

Petitioner anticipates that automakers may object to the petition at bar claiming that it is a parental responsibility issue. Petitioner concedes that it is inadvisable to leave a child unattended in a motor vehicle. However, as a matter of categorical fact, it is happening and apparently will continue to happen and the **CHILDREN** suffer the consequences. This petition is about protecting the children. It is painfully obvious that parents do not appreciate the dangers posed by leaving a child momentarily unattended in a vehicle. To assume otherwise, one must believe that parents understand that they are putting their child's life in danger and simply do not care. This reasoning strains all

bounds of credibility. What is clear, however, is that automakers understand and appreciate that danger as evidenced by the increasing number of lawsuits and complaints directed at U.S. Automakers. By making the simple change to push down/pull up technology, the automaker, at no additional cost to itself, can save these children's lives.

With respect to the Automatic Reversal Safety features, in 1996 NHTSA erroneously concluded that a system did not exist that was technologically and economically feasible in denying the petition. Attached hereto, petitioner submits exhibits showing that automatic reversal windows which meet FMVSS 118 S5 do, in fact, exist and are economically feasible.

At bottom, there is absolutely no reason for these children to be dying. The petitioner's attorney below currently represents five families who have suffered the fate of these death traps, all occurring within the last 18 months. We concede that litigation alone will not effect change (absent a large punitive damage award). Petitioner requests this governmental body to intervene and prevent these senseless tragedies.

SUBSTANCE OF THE ORDER WHICH SHOULD BE ISSUED

Petitioner believes an Order should issue requiring automakers to incorporate into the design of their power window systems, (a.) available technology which would prevent the inadvertent actuation of the up switch by a child kneeling or standing on said switch and (b.) incorporating the AUTOMATIC REVERSAL SAFETY SYSTEM into the design of all power windows which meet FMVSS 118 S5.

Respectfully submitted,

DAVID W. LITTLE, P.C. on behalf
of the Zoie Foundation



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Dated this 10th day of January, 2003